



CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 4556

RIN 3045-AA70; 3045-AA79

Volunteers in Service to America

AGENCY: Corporation for National and Community Service.

ACTION: Proposed rule with request for comments.

SUMMARY: The Corporation for National and Community Service (operating as AmeriCorps) is proposing to update its regulations to reflect current position titles and roles, define the statutory phrase “direct cost of supporting volunteers,” revise provisions that no longer reflect AmeriCorps’ practice, and make technical changes. The position titles must be updated because VISTA now operates through Regional Administrators, rather than State Program Directors. The statutory phrase interpretation is necessary because under its authorizing statute, AmeriCorps may not provide a non-competitive grant for the “direct cost of supporting volunteers” to projects less than one year old. This proposed rule would define the phrase to include those funds paid directly for the support of VISTA volunteers, such as living allowances, travel reimbursements, and end-of-service benefits, but not funds paid for the support of the VISTA sponsor organization. This change would make VISTA projects more accessible to organizations in underserved communities that may not have otherwise been able to secure the resources to devote a supervisor or certain administrative costs to a new project.

DATES: Written comments must be submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may send your comments electronically through the Federal government’s one-stop rulemaking website at www.regulations.gov. You may also send

your comments to Elizabeth Appel, Associate General Counsel, at eappel@cns.gov or by mail to AmeriCorps, 250 E Street SW, Washington DC 20525.

FOR FURTHER INFORMATION CONTACT: Carly Bruder, Acting Director, AmeriCorps VISTA, at cbruder@cns.gov, (202) 606-6871, or by mail to AmeriCorps, 250 E Street SW, Washington DC 20525.

SUPPLEMENTARY INFORMATION:

I. Background

AmeriCorps VISTA is a national service program designed to provide needed resources to nonprofit organizations and public agencies to strengthen and supplement efforts to address poverty and poverty-related problems in the United States and certain U.S. territories. The VISTA program provides opportunities for individuals to join as volunteers (“members”) who perform, on a full-time basis, service with an organization (“sponsor”) to create, strengthen, or expand initiatives designed to assist individuals and communities in addressing poverty. Each year, the AmeriCorps VISTA program awards non-grant (i.e., VISTA member, leader, or summer associate positions) and grant resources to sponsors. A sponsor is responsible for designing and implementing the VISTA project and recruiting, supervising, and providing necessary administrative support (e.g., supplies and equipment, in-service training and development, mileage reimbursement) to VISTA members to complete the goals of the project. Among its grants, AmeriCorps VISTA offers non-competitive grants to fund sponsor organizations’ costs to supply, among other items, supervision for a VISTA project.

II. Overview of Proposed Rule

The Domestic Volunteer Service Act of 1973 (DVSA) states that AmeriCorps may not provide a grant for the “direct cost of supporting volunteers” to any project that is less than one year old unless that grant is awarded competitively. *See* 42 U.S.C. 4960(b). Under this statutory provision, AmeriCorps may provide non-competitive

support grants only to projects that have been operating for a year or more, or to projects less than one year old if the grant is for something other than the “direct cost of supporting volunteers.”

This proposed rule would define “direct cost of supporting volunteers” to include only the funds paid directly for the support of VISTA members, such as living allowances, travel reimbursements, and end-of-service benefits. With this definition, the proposed rule would make clear that AmeriCorps can provide noncompetitive grants to support a VISTA sponsor organization, including funds to support the sponsor organization’s supervisor, for a VISTA project that is less than one year old. Over the past few years, sponsors with projects less than a year old have not been able to access noncompetitive support grants because of AmeriCorps’ previous broad interpretation of the phrase “direct cost of supporting volunteers” to include not only the costs of supporting members but also the costs of supporting the sponsor’s supervisor. The proposed rule would make VISTA projects more accessible to sponsor organizations in underserved communities who may not have otherwise been able to secure the resources to devote a supervisor or certain administrative costs to a new project. The limitations on VISTA sponsors receiving funding for the direct cost of supporting volunteers are set out in proposed § 2556.180.

This proposed rule would also update position titles and roles to reflect current agency organization, revise provisions that no longer reflect current practice, and make technical changes. Specifically, the proposed rule would:

- In the definitions section, at § 2556.5:
 - Delete the definitions of “Area Manager” and “State Program Director”

- Add definitions for “Deputy Regional Administrator,” “Portfolio Manager,” Regional Administrator,” “Senior Portfolio Manager,” “VISTA Case Manager,” and “VMSU Director.”
 - Replace the definition of “CNCS” with a definition of “AmeriCorps” to reflect that the Agency operates as AmeriCorps.
- In § 2556.200, clarify that both the age and citizenship status of the individual entering VISTA service are determined at the time they take their oath or affirmation of service, and delete “lawful permanent resident” as an example of individuals legally residing in a State because there may be additional categories of individuals legally residing in a State that are not technically “lawful permanent residents” (e.g., refugees prior to obtaining a green card).
- In § 2556.305(c), delete the requirement for VISTA members to actively seek opportunities to engage with the low-income community because the nature of modern service requirements may not provide for those opportunities, and delete “without regard to regular working hours” because paragraph (a) already addresses that point.
- In § 2556.320(d) and § 2556.505(b)(2), replace reference to a “baggage allowance” benefit to transport personal effects to the project site with reference to a “location travel allowance” to offset the cost of relocating from the home of record to the project site, to more accurately describe what the allowance is provided for.
- In § 2556.350(b)(3), add “the content of” to clarify that matters excluded from the VISTA program grievance procedures include those related to the content of any law, published rule, regulation, policy or procedure.
- In §2556.500, delete paragraph (a), which provides that the State Program Director invites sponsors in the State to apply for positions for individuals to

serve as summer associates at the sponsor's VISTA project, because the current process does not include a separate invitation outside of the annual award-making process.

- In § 2556.610, remove the list of specific components of a sponsor recommendation, to allow sponsors greater flexibility in drafting their recommendations, and instead clarify the criteria that AmeriCorps relies upon when selecting leaders as including consideration of the individual's experience, special skills, and leadership.
- Make the following updates to position titles and agency organization:
 - In § 2556.320(i), change “State Program Director” to “VISTA Case Manager” for the role of determining if a VISTA did not successfully complete a full term of service because of a compelling personal circumstance;
 - In § 2556.360(a), change “State Program Director” to “Deputy Regional Administrator” for the role of receiving and issuing a determination on a grievance brought by a VISTA;
 - In § 2556.365, change “Area Manager” to “Regional Administrator” as the official who will receive an appeal of a VISTA grievance, and change “State Program Director” to “Deputy Regional Administrator”;
 - In § 2556.410, change “State Program Director” to “Portfolio Manager” for handling requests of sponsoring organizations to remove a VISTA member from its project;
 - In § 2556.420(a), (b), and (d), change “State Program Director” and “State Program Director or other CNCS State Office Staff” to “AmeriCorps” generally, to allow the agency to determine and address in policy the appropriate personnel to handle termination for cause

proceedings. In paragraphs (c) and (d), change “State Program Director” to “VISTA Case Manager” to specify that the VISTA Case Manager will be the person who sends a VISTA member a proposal to terminate, and to whom the member addresses any answer to the proposal;

- In § 2556.425(a), change “State Program Director” to “the appropriate AmeriCorps Director” as the issuer of a termination decision and change “appropriate Area Manager” to “VMSU Director” as the official to whom a VISTA may submit an appeal of the termination decision, and in paragraph (d) change “Area Manager” to “VMSU Director” as the official issuing a written appeal determination.
- In § 2556.625(k), change “State Office” to “Regional Office.”
- Throughout the regulation:
 - Change “CNCS” to “AmeriCorps” to reflect that the Agency operates as AmeriCorps;
 - Change “he or she” and “his or her” to gender-neutral “they” and “their”;
 - Change “shall” to “will” or “must” or other language as appropriate to more clearly convey in plain language what is required and allowed, and change “shall not” to “may not” in accordance with plain language guidelines in §§ 2556.105(b), 2556.120(a)-(b), 2556.125(b), 2556.130(a)-(e), 2556.135(b)-(e), 2556.140(c)-(f), 2556.145, 2556.150(f), 2556.155(d)-(e), 2556.160(a)-(b), 2556.165, 2556.170(d)(2), 2556.175(a), 2556.305(c), 2556.320(i)-(j), 2556.345(b)-(c), 2556.360(a)(3) and (b)(3), 2556.365(e), 2556.410(c),

2556.420(c)-(d), 2556.425(b) and (d), 2556.610(c), 2556.625(b),
2556.760(a)-(b), 2556.770(b), and 2556.780(a)-(b).

Other non-substantive changes were made to the text throughout to improve readability. Together, these changes are easiest to see in their context, with a reprinting of the entire part 2556.

III. Regulatory Analyses

A. Executive Orders 12866 and 13563

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs in the Office of Management and Budget does not anticipate that this will be a significant regulatory action.

B. Congressional Review Act (Small Business Regulatory Enforcement Fairness Act of 1996, Title II, Subtitle E)

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, AmeriCorps will submit for an interim or final rule a report to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. The Office of Information and Regulatory Affairs in the Office of Management and Budget anticipates that this will not be a major rule under 5 U.S.C. 804 because this rule will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse effects on

competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

C. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), AmeriCorps certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Therefore, AmeriCorps has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for rules that are expected to have such results.

D. Unfunded Mandates Reform Act of 1995

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or Tribal Governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

E. Paperwork Reduction Act

Under the PRA, an agency may not conduct or sponsor a collection of information unless the collections of information display valid control numbers. This proposed rule does not affect any information collections.

F. Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on State and local Governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rulemaking does not have any federalism implications, as described above.

G. Takings (E.O. 12630)

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this proposed rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable “taking.” A takings implication assessment is not required.

H. Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rulemaking: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation with Indian Tribes (E.O. 13175)

AmeriCorps recognizes the inherent sovereignty of Indian Tribes and their right to self-governance. We have evaluated this rulemaking under our consultation policy and the criteria in E.O. 13175 and determined that this proposed rule does not impose substantial direct effects on federally recognized Tribes.

J. Clarity of this Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each proposed rule we publish must: (a) be logically organized; (b) use the active voice to address readers directly; (c) use clear language rather than jargon; (d) be divided into short sections and sentences; and (e) use lists and tables wherever possible. If you feel that we have not met these requirements, please send us comments by one of the methods listed in the ADDRESSES section. To help us revise the rule, your comments should be as specific as possible.

List of Subjects in 45 CFR Part 2556

Grant programs-social programs, Volunteers.

For the reasons stated in the preamble, the Corporation for National and Community Service is proposing to amend title 45 of the Code of Federal Regulations by revising part 2556 to read as follows:

PART 2556 - VOLUNTEERS IN SERVICE TO AMERICA

Subpart A—General Information

Sec.

- 2556.1 What is the purpose of the VISTA program?
- 2556.3 Who should read this part?
- 2556.5 What definitions apply in this part?
- 2556.7 Are waivers of the regulations in this part allowed?

Subpart B—VISTA Sponsors

- 2556.100 Which entities are eligible to apply to become VISTA sponsors?
- 2556.105 Which entities are prohibited from being VISTA sponsors?
- 2556.110 What VISTA assistance is available to a sponsor?
- 2556.115 Is a VISTA sponsor required to provide a cash or in-kind match?
- 2556.120 How does a VISTA sponsor ensure the participation of people in the communities to be served?
- 2556.125 May AmeriCorps deny or reduce VISTA assistance to an existing VISTA project?
- 2556.130 What is the procedure for denial or reduction of VISTA assistance to an existing VISTA project?
- 2556.135 What is suspension and when may AmeriCorps suspend a VISTA project?
- 2556.140 What is termination and when may AmeriCorps terminate a VISTA project?
- 2556.145 May AmeriCorps pursue other remedies against a VISTA project for a sponsor's material failure to comply with any other requirement not set forth in this subpart?
- 2556.150 What activities are VISTA members not permitted to perform as part of service?
- 2556.155 May a sponsor manage a VISTA project through a subrecipient?
- 2556.160 What are the sponsor's requirements for cost share projects?
- 2556.165 What Fair Labor Standards apply to VISTA sponsors and subrecipients?
- 2556.170 What nondiscrimination requirements apply to sponsors and subrecipients?
- 2556.175 What limitations are VISTA sponsors subject to regarding religious activities?
- 2556.180 What are the limitations on VISTA sponsors receiving funding for the direct cost of supporting volunteers?

Subpart C—VISTA Members

- 2556.200 Who may serve as a VISTA?
- 2556.205 What commitments and agreements must an individual make to serve in the VISTA program?
- 2556.210 Who reviews and approves an application for VISTA service?

Subpart D—Terms, Protections, and Benefits of VISTA Members

- 2556.300 Is a VISTA considered a Federal employee and is a VISTA considered an employee of the sponsor?
- 2556.305 What is the duration and scope of service for a VISTA?
- 2556.310 What are a VISTA sponsor's and AmeriCorps' supervisory responsibilities during a VISTA's term of service?
- 2556.315 What are terms and conditions for official travel for a VISTA?
- 2556.320 What benefits may a VISTA receive during VISTA service?
- 2556.325 May a VISTA be provided coverage for legal defense expenses related to VISTA service?
- 2556.330 When may a VISTA be provided coverage for legal defense expenses related to criminal proceedings?
- 2556.335 When may a VISTA be provided coverage for legal defense expenses related to civil or administrative proceedings?
- 2556.340 What is non-competitive eligibility and who is eligible for it?
- 2556.345 Who may present a grievance?
- 2556.350 What matters are considered grievances?
- 2556.355 May a VISTA have access to records as part of the VISTA grievance procedure?
- 2556.360 How may a VISTA bring a grievance?
- 2556.365 May a VISTA appeal a grievance?

Subpart E—Termination for Cause Procedures

- 2556.400 What is termination for cause and what are the criteria for termination for cause?
- 2556.405 Who has sole authority to remove a VISTA from a VISTA project and who has sole authority to terminate a VISTA from a VISTA project or the VISTA program?
- 2556.410 May a sponsor request that a VISTA be removed from its project?
- 2556.415 May AmeriCorps remove a VISTA from a project without the sponsor's request for removal?
- 2556.420 What are termination for cause proceedings?
- 2556.425 May a VISTA appeal their termination for cause?
- 2556.430 Is a VISTA who is terminated early from the VISTA program for other than cause entitled to appeal under these procedures?

Subpart F—Summer Associates

- 2556.500 How is a position for a summer associate established in a project?
- 2556.505 How do summer associates differ from other VISTAs?

Subpart G—VISTA Leaders

- 2556.600 How is a position for a leader established in a project, or in multiple projects within a contiguous geographic region?
- 2556.605 Who is eligible to apply to serve as a leader?
- 2556.610 What is the application process to apply to become a leader?
- 2556.615 Who reviews a leader application and who approves or disapproves a leader application?
- 2556.620 How does a leader differ from other VISTAs?
- 2556.625 What are terms and conditions of service for a leader?

Subpart H—Restrictions and Prohibitions on Political Activities and Lobbying

- 2556.700 Who is covered by this subpart?
- 2556.705 What is prohibited political activity?
- 2556.710 What political activities are VISTAs prohibited from engaging in?
- 2556.715 What political activities may a VISTA participate in?
- 2556.720 May VISTAs participate in political organizations?
- 2556.725 May VISTAs participate in political campaigns?

- 2556.730 May VISTAs participate in elections?
- 2556.735 May a VISTA be a candidate for public office?
- 2556.740 May VISTAs participate in political fundraising activities?
- 2556.745 Are VISTAs prohibited from soliciting or discouraging the political participation of certain individuals?
- 2556.750 What restrictions and prohibitions are VISTAs who campaign for a spouse or family member subject to?
- 2556.755 May VISTAs participate in lawful demonstrations?
- 2556.760 May a sponsor or subrecipient approve the participation of a VISTA in a demonstration or other political meeting?
- 2556.765 What disciplinary actions are VISTAs subject to for violating restrictions or prohibitions on political activities?
- 2556.770 What are the requirements of VISTA sponsors and subrecipients regarding political activities?
- 2556.775 What prohibitions and restrictions on political activity apply to employees of VISTA sponsors and subrecipients?
- 2556.780 What prohibitions on lobbying activities apply to VISTA sponsors and subrecipients?

AUTHORITY: 42 U.S.C. 4951-4953; 5 CFR part 734, 42 U.S.C. 4953(a), (f), 4954(b), (e), 4955(b), 4956, 5043(a)-(c), 5044(a)-(c), (e), 5046, 5052, 5056, and 5057; 42 U.S.C. 12651b (g)(10); 42 U.S.C. 12651c(c); E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 2156, 42 U.S.C. 4954(a), (b), (d), 4955, 5044(e), 5055, and 5059; 42 U.S.C. 12602(c), 42 U.S.C. 4953(b), (c), (f), and 5044(e).

Subpart A - General Information

§ 2556.1 What is the purpose of the VISTA program?

(a) The purpose of the VISTA program is to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems throughout the United States and certain U.S. territories. To effect this purpose, the VISTA program encourages and enables individuals from all walks of life to join VISTA to perform, on a full-time basis, meaningful and constructive service to assist in the solution of poverty and poverty-related problems and secure opportunities for self-advancement of persons afflicted by such problems.

(b) The VISTA program objectives are to:

- (1) Generate private sector resources;
- (2) Encourage volunteer service at the local level;
- (3) Support efforts by local agencies and community organizations to achieve

long-term sustainability of projects; and

(4) Strengthen local agencies and community organizations to carry out the purpose of the VISTA program.

§ 2556.3 Who should read this part?

This part may be of interest to:

(a) Private nonprofit organizations, public nonprofit organizations, State government agencies, local government agencies, Federal agencies, and Tribal government agencies who are participating in the VISTA program as sponsors, or who are interested in participating in the VISTA program as sponsors.

(b) Individuals 18 and older who are serving as a VISTA, or who are interested in serving as a VISTA.

§ 2556.5 What definitions apply in this part?

Act or DVSA means the Domestic Volunteer Service Act of 1973, as amended, Public Law 93-113 (42 U.S.C. 4951 *et seq.*).

Alternative oath or affirmation means a pledge of VISTA service taken by an individual who legally resides within a State, but who is not a citizen or national of the United States, upon that individual's enrollment into the VISTA program.

AmeriCorps means the Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

Applicant for VISTA service means an individual who is in the process of completing, or has completed, an application for VISTA service as prescribed by AmeriCorps, but who has been not been approved by AmeriCorps to be a candidate.

Application for VISTA service means the materials prescribed by AmeriCorps to determine an individual's eligibility and suitability for VISTA service.

Assistance means VISTAs, leaders, or summer associates. “Assistance” also means technical assistance or training of VISTAs, leaders, summer associates, candidates, sponsors, or supervisors that are provided from funds appropriated by Congress for the purpose of supporting activities under the DVSA. “Assistance” also means grant funds.

Candidate, when used in the context of an individual who has applied for VISTA service, means an individual whose application for VISTA service has been approved by AmeriCorps, but who has not taken an oath, alternative oath, or affirmation to serve in the VISTA program. Candidates may include those who were enrolled in the VISTA program at a prior time.

Cost share means when an entity, such as a VISTA sponsor, reimburses AmeriCorps part or all of the expenses associated with the operation of a VISTA project, such as the costs for one or more VISTAs, leaders, or summer associates placed in a VISTA project.

Deputy Regional Administrator means an AmeriCorps official who reports directly to the Regional Administrator and oversees the day-to-day regional operations to ensure the quality of program design and delivery.

Education award or *Segal AmeriCorps Education Award* means an end-of-service monetary benefit from AmeriCorps’ National Service Trust that is directed to designated educational institutions and is awarded to certain qualifying VISTAs who successfully complete an established term of VISTA service.

Enroll, enrolled, or enrollment, when used in the context of VISTA service, refers to the status of an individual admitted to serve in the VISTA program. The enrollment period commences when the candidate takes the Oath to serve in the VISTA program and ends upon their termination from a term of service in the VISTA program. The enrollment period may begin on a date earlier than the first day of a service assignment of an enrolled VISTA member.

Full-time, when used in the context of VISTA service, means service in which a VISTA, leader, or summer associate remains available for service without regard to regular working hours.

Leader, a leader, or a VISTA leader means a VISTA member who is enrolled for full-time VISTA service and who is also subject to the terms of subpart G of this part.

Living allowance or living allowance payment means a monetary benefit paid for subsistence purposes to a VISTA member during VISTA service.

Memorandum of Agreement means a written agreement between AmeriCorps and a sponsor regarding the terms of the sponsor's involvement and responsibilities in the VISTA program.

Nonpartisan election means:

(1) An election in which none of the candidates for nomination or election represents a political party for which candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

(2) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of a similar character.

Oath means an avowal to VISTA service, taken in accordance with 5 U.S.C. 3331, by an individual who is a U.S. citizen or national. The taking of the Oath effects an individual's enrollment into the VISTA program.

On-duty or during service time means when a VISTA is either performing VISTA service or scheduled to do so.

Portfolio Manager means an AmeriCorps official who reports to a Senior Portfolio Manager and serves as a technical advisor to current and prospective grantees and sponsors for effective, timely, and compliant administration of grant awards.

Project or *VISTA project* means a set of VISTA activities operated and overseen by, and the responsibility of, a sponsor, and assisted under this part to realize the goals of title I of the DVSA.

Project applicant or *VISTA project applicant* means an entity that submits an application to AmeriCorps to operate, oversee, and be responsible for a VISTA project.

Project application or *VISTA project application* means the application materials prescribed by AmeriCorps to determine an applying entity's eligibility and suitability to operate, oversee, and be responsible for, a VISTA project.

Project director or *VISTA project director* means a staff person, of legal age, of the sponsor, who has been assigned by the sponsor the overall responsibility for management of the VISTA project.

Regional Administrator means an AmeriCorps official who is the head of a designated region for AmeriCorps and responsible for driving, managing, and overseeing the strategic direction and operations of the Regional Office.

Senior Portfolio Manager means an AmeriCorps official who reports to a Deputy Regional Administrator and supervises a team of portfolio managers and manages an advanced portfolio of grants and program development.

Sponsor, VISTA sponsor, or VISTA project sponsor means a public agency or private non-profit organization that receives assistance under title I of the DVSA and is responsible for operating and overseeing a VISTA project. A public agency may be a Federal, State, local or Tribal Government.

State, when used as a noun, means one of the several States in the United States of America, District of Columbia, Virgin Islands, Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Stipend or end-of-service stipend means an end-of-service lump-sum monetary benefit from AmeriCorps that is awarded to certain qualifying VISTAs who successfully complete an established term of VISTA service.

Subrecipient means a public agency or private non-profit organization that enters into an agreement with a VISTA sponsor to receive one or more VISTAs, and to carry out a set of activities, assisted under this part, to realize the goals of title I of the DVSA. A public agency may be a Federal, State, local or Tribal Government.

Summer associate means a VISTA member who is enrolled for VISTA service, during a period between May 1 and September 15, and who is also subject to the terms of subpart H of this part. A summer associate must be available to provide continuous full-time service for a period of at least eight weeks and a maximum of ten weeks.

Supervisor or VISTA Supervisor means a staff member, of legal age, of the sponsor or a subrecipient, who has been assigned by the sponsor or the subrecipient the responsibility for day-to-day oversight of one or more VISTAs.

Tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized by the United States or the State in which it resides as eligible for special programs and services provided to Indians because of their status as Indians.

VISTA Case Manager means an AmeriCorps official who reports to the VMSU Director and manages service status changes of VISTA members (e.g., removals, terminations, and transfers).

VISTA member, a VISTA, or the VISTA means an individual enrolled full-time in the VISTA program, as authorized under title I of the DVSA.

VISTA program means the Federal Government program named Volunteers in Service to America and authorized under title I of the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 *et seq.*

VISTA service means VISTA service activities performed by a VISTA member while enrolled in the VISTA program.

VMSU Director means the AmeriCorps official who is Director of the VISTA Member Support Unit and manages daily operations of the VMSU to provide services to potential, current, and former VISTA members.

§ 2556.7 Are waivers of the regulations in this part allowed?

Upon a determination of good cause, the Chief Executive Officer of AmeriCorps may, subject to statutory limitations, waive any provisions of this part.

Subpart B – VISTA Sponsors

§ 2556.100 Which entities are eligible to apply to become VISTA sponsors?

The following types of entities are eligible to apply to become VISTA sponsors and thereby undertake projects in the U.S. and certain U.S. territories:

- (a) Private nonprofit organizations.
- (b) Public nonprofit organizations.
- (c) State government or State government agencies.
- (d) Local government or local government agencies.
- (e) Tribal government or Tribal government agencies.

§ 2556.105 Which entities are prohibited from being VISTA sponsors?

(a) An entity is prohibited from being a VISTA sponsor or from otherwise receiving VISTA assistance if a principal purpose or activity of the entity includes any of the following:

(1) *Electoral activities.* Any activity designed to influence the outcome of elections to any public office, such as actively campaigning for or against, or supporting, candidates for public office; raising, soliciting, or collecting funds for candidates for public office; or preparing, distributing, providing funds for campaign literature for candidates, including leaflets, pamphlets, and material designed for print or electronic media.

(2) *Voter registration activities.* Any voter registration activity, such as providing transportation of individuals to voter registration sites; providing assistance to individuals in the process of registering to vote, including determinations of eligibility; or disseminating official voter registration material.

(3) *Transportation to the polls.* Providing voters or prospective voters with transportation to the polls or raising, soliciting, or collecting funds for such activities.

(b) Any organization that, subsequent to the receipt of VISTA assistance, makes as one of its principal purposes or activities any of the activities described in paragraph (a) of this section is subject to the procedures in §§ 2556.125 through 2556.145.

§ 2556.110 What VISTA assistance is available to a sponsor?

(a) A sponsor may be approved for one or more VISTA positions.

(b) A sponsor, upon review and approval by AmeriCorps to establish a leader position or positions, and in accordance with criteria set forth at subpart G of this part, may be approved for one or more leader positions.

(c) A sponsor, upon approval by AmeriCorps to establish a summer associate position or positions, and in accordance with criteria set forth at subpart F of this part, may be approved for one or more summer associate positions.

(d) A sponsor may be eligible to receive certain grant assistance under the terms determined and prescribed by AmeriCorps.

(e) A sponsor may receive training and technical assistance related to carrying out the purposes of title I of the DVSA.

§ 2556.115 Is a VISTA sponsor required to provide a cash or in-kind match?

(a) A sponsor is not required to provide a cash match for any of the assistance listed in § 2556.110.

(b) A sponsor must provide supervision, workspace, service-related transportation, and any other materials necessary to operate and complete the VISTA project and support the VISTA.

§ 2556.120 How does a VISTA sponsor ensure the participation of people in the communities to be served?

(a) To the maximum extent practicable, the people of the communities to be served by VISTA members must participate in planning, developing, and implementing programs.

(b) The sponsor must articulate in its project application how it will engage or continue to engage relevant communities in the development and implementation of programs.

§ 2556.125 May AmeriCorps deny or reduce VISTA assistance to an existing VISTA project?

(a) AmeriCorps may deny or reduce VISTA assistance where a denial or reduction is based on:

- (1) Legislative requirement;
- (2) Availability of funding;
- (3) Failure to comply with applicable term(s) or condition(s) of a contract, grant agreement, or an applicable Memorandum of Agreement;
- (4) Ineffective management of AmeriCorps resources;
- (5) Substantial failure to comply with AmeriCorps policy and overall objectives under a contract, grant agreement, or applicable Memorandum of Agreement; or
- (6) General policy.

(b) In instances where the basis for denial or reduction of VISTA assistance may also be the basis for the suspension or termination of a VISTA project under this subpart, AmeriCorps is not limited to the use of this section to the exclusion of the procedures for suspension or termination in this subpart.

§ 2556.130 What is the procedure for denial or reduction of VISTA assistance to an existing VISTA project?

- (a) AmeriCorps will notify the sponsor in writing, at least 75 calendar days before the anticipated denial or reduction of VISTA assistance, that AmeriCorps proposes to deny or reduce VISTA assistance. AmeriCorps' written notice will state the reasons for the decision to deny or reduce assistance and will provide an opportunity period for the sponsor to respond to the merits of the proposed decision. AmeriCorps retains sole authority to make the final determination as to whether the VISTA assistance at issue will be denied or reduced, as appropriate.
- (b) Where AmeriCorps' notice of proposed decision is based upon a specific charge of the sponsor's failure to comply with the applicable term(s) or condition(s) of a contract, grant agreement, or an applicable Memorandum of Agreement, the notice will offer the sponsor an opportunity period to respond in writing to the notice, with any affidavits or

other supporting documentation, and to request an informal hearing before a mutually agreed-upon impartial hearing officer. The authority of such a hearing officer will be limited to conducting the hearing and offering recommendations to AmeriCorps.

Regardless of whether or not an informal hearing takes place, AmeriCorps will retain full authority to make the final determination as to whether the VISTA assistance is denied or reduced, as appropriate.

(c) If the recipient requests an informal hearing, in accordance with paragraph (b) of this section, such hearing will be held on a date specified by AmeriCorps and held at a location convenient to the sponsor.

(d) If AmeriCorps' proposed decision is based on ineffective management of resources, or on the substantial failure to comply with AmeriCorps policy and overall objectives under a contract, grant agreement, or an applicable Memorandum of Agreement, AmeriCorps will inform the sponsor in the notice of proposed decision of the opportunity to show cause why VISTA assistance should not be denied or reduced, as appropriate. AmeriCorps retains full authority to make the final determination whether the VISTA assistance at issue will be denied or reduced, as appropriate.

(e) The recipient will be informed of AmeriCorps' final determination on whether the VISTA assistance at issue is denied or reduced, and the basis for the determination.

(f) The procedure in this section does not apply to a denial or reduction of VISTA assistance based on legislative requirements, availability of funding, or on general policy.

§ 2556.135 What is suspension and when may AmeriCorps suspend a VISTA project?

(a) Suspension is any action by AmeriCorps that temporarily suspends or curtails assistance, in whole or in part, to all or any part of a VISTA project, prior to the time that

the project term is concluded. Suspension does not include the denial or reduction of new or additional VISTA assistance.

(b) In an emergency situation for up to 30 consecutive days, AmeriCorps may suspend assistance to a sponsor, in whole or in part, for the sponsor's material failure or threatened material failure to comply with an applicable term(s) or condition(s) of the DVSA, the regulations in this part, VISTA program policy, or an applicable Memorandum of Agreement. Such suspension in an emergency situation will be pursuant to notice and opportunity to show cause why assistance should not be suspended.

(c) To initiate suspension proceedings, AmeriCorps will notify the sponsor in writing that AmeriCorps is suspending assistance in whole or in part. The written notice will contain the following:

(1) The grounds for the suspension and the effective date of the suspension;

(2) The sponsor's right to submit written material in response to the suspension to show why the VISTA assistance should not be suspended, or should be reinstated, as appropriate; and

(3) The opportunity to adequately correct the deficiency, or deficiencies, which led to AmeriCorps' notice of suspension.

(d) In deciding whether to continue or lift the suspension, as appropriate, AmeriCorps will consider any timely material presented in writing, any material presented during the course of any informal meeting, as well as any showing that the sponsor has adequately corrected the deficiency which led to the initiation of suspension.

(e) During the period of suspension of a sponsor, no new expenditures, if applicable, may be made by the sponsor's VISTA project at issue and no new obligations may be incurred in connection with the VISTA project at issue except as specifically authorized in writing by AmeriCorps.

(f) AmeriCorps may, at its discretion, modify the terms, conditions, and nature of the suspension or rescind the suspension action at any time, on its own initiative or upon a showing that the sponsor has adequately corrected the deficiency or deficiencies which led to the suspension and that repetition is not foreseeable.

§ 2556.140 What is termination and when may AmeriCorps terminate a VISTA project?

(a) Termination means any action by AmeriCorps that permanently terminates or curtails assistance to all or any part of a sponsor's VISTA project prior to the time that the project term is concluded.

(b) AmeriCorps may terminate assistance to a sponsor in whole or in part for the sponsor's material failure to comply with an applicable term(s) or condition(s) of the DVSA, the regulations in this part, VISTA program policy, or an applicable Memorandum of Agreement.

(c) To initiate termination proceedings, AmeriCorps will notify the sponsor in writing that AmeriCorps is proposing to terminate assistance in whole or in part. The written notice will contain the following:

(1) A description of the VISTA assistance proposed for termination, the grounds that warrant such proposed termination, and the proposed date of effective termination;

(2) Instructions regarding the sponsor's opportunity, within 21 calendar days from the date the notice is issued, to respond in writing to the merits of the proposed termination and their right to request a full and fair hearing before a mutually agreed-upon impartial hearing officer; and

(3) Invitation of voluntary action by the sponsor to adequately correct the deficiency or deficiencies which led to AmeriCorps' notice of proposed termination.

(d) In deciding whether to effect termination of VISTA assistance, AmeriCorps will consider any relevant, timely material presented in writing; any relevant material presented during the course of any full and fair hearing; and any showing that the sponsor has adequately corrected the deficiency which led to the initiation of termination proceedings.

(e) Regardless of whether or not a full and fair hearing takes place, AmeriCorps retains all authority to make the final determination as to whether termination of VISTA assistance is appropriate.

(f) The sponsor will be informed of AmeriCorps' final determination on the proposed termination of VISTA assistance, and the basis or bases for the determination.

(g) AmeriCorps may, at its discretion, modify the terms, conditions, and nature of a termination action or rescind a termination action at any time on its own initiative, or upon a showing that the sponsor has adequately corrected the deficiency which led to the termination or the initiation of termination proceedings, and that repetition is not threatened.

§ 2556.145 May AmeriCorps pursue other remedies against a VISTA project for a sponsor's material failure to comply with any other requirement not set forth in this subpart?

The procedures established by this subpart do not preclude AmeriCorps from pursuing any other remedies authorized by law.

§ 2556.150 What activities are VISTA members not permitted to perform as part of service?

(a) A VISTA may not perform any activities in the project application that do not correspond with the purpose of the VISTA program, as described in § 2556.1, or that the Director has otherwise prohibited.

(b) A VISTA may not perform services or duties as a VISTA member that would otherwise be performed by employed workers or other volunteers (not including participants under the DVSA and the National and Community Service Act of 1990, as amended).

(c) A VISTA may not perform any services or duties, or engage in activities as a VISTA member, that supplant the hiring of or result in the displacement of employed workers or other volunteers (not including participants under the DVSA or the National and Community Service Act of 1990, as amended).

(d) A VISTA may not perform any services or duties, or engage in activities as a VISTA member, which impair existing contracts for service.

(e) The requirements of paragraphs (b) through (d) of this section do not apply when the sponsor requires the service in order to avoid or relieve suffering threatened by, or resulting from, a disaster, civil disturbance, terrorism, or war.

(f) A sponsor or subrecipient may not request or receive any compensation from a VISTA, from a beneficiary of VISTA project services, or any other source for services of a VISTA.

§ 2556.155 May a sponsor manage a VISTA project through a subrecipient?

(a) A sponsor may carry out a VISTA project through one or more subrecipients that meet the eligibility criteria of § 2556.100.

(b) The sponsor must enter into a subrecipient agreement with each subrecipient. A subrecipient agreement must have at least the following elements:

(1) A project plan to be implemented by the subrecipient;

- (2) Records to be kept and reports to be submitted;
 - (3) Responsibilities of the parties and other program requirements; and
 - (4) Suspension and termination policies and procedures.
- (c) The sponsor retains the responsibility for compliance with a Memorandum of Agreement; the applicable regulations in this Part; and all applicable policies, procedures, and guidance issued by AmeriCorps regarding the VISTA program.
- (d) A sponsor may not request or receive any compensation from a subrecipient for services performed by a VISTA.
- (e) A sponsor may not receive payment from, or on behalf of, the subrecipient for costs of the VISTA assistance, except in two limited circumstances:
 - (1) For reasonable and actual costs incurred by the sponsor directly related to the subrecipient's participation in a VISTA project; and
 - (2) For any cost share related to a VISTA placed with the subrecipient in the VISTA project.

§ 2556.160 What are the sponsor's requirements for cost share projects?

- (a) A sponsor must enter into a written agreement for cost share as prescribed by AmeriCorps.
- (b) A sponsor must make timely cost share payments as prescribed by AmeriCorps and applicable Federal law and regulations.
- (c) In addition to other sources of funds, a sponsor may use funds from Federal, State, or local Government agencies, provided the requirements of those agencies and their programs are met.
- (d) Subject to review and approval by AmeriCorps, AmeriCorps may enter into an agreement with another entity to receive and use funds to make cost share payments on behalf of the sponsor.

§ 2556.165 What Fair Labor Standards apply to VISTA sponsors and subrecipients?

All sponsors and subrecipients that employ laborers and mechanics for construction, alteration, or repair of facilities must pay wages at prevailing rates as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

§ 2556.170 What nondiscrimination requirements apply to sponsors and subrecipients?

(a) An individual with responsibility for the operation of a project that receives AmeriCorps assistance must not discriminate against a participant in, or member of the staff of, such project on the basis of the participant or staff member's race, color, national origin, sex, age, or political affiliation, or on the basis of disability, if the participant or staff member is a qualified individual with a disability.

(b) Any AmeriCorps assistance constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and constitutes Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).

(c) An individual with responsibility for the operation of a project that receives AmeriCorps assistance may not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with AmeriCorps funds. This provision does not apply to the employment (with AmeriCorps assistance) of

any staff member of an AmeriCorps-supported project who was employed with the organization operating the project on the date the AmeriCorps assistance was awarded.

(d) Sponsors must notify all program participants, staff, applicants, and beneficiaries of:

(1) Their rights under applicable Federal nondiscrimination laws, including relevant provisions of the national service legislation and implementing regulations; and

(2) The procedure for filing a discrimination complaint. No sponsor or subrecipient, or sponsor or subrecipient employee, or individual with responsibility for the implementation or operation of a sponsor or a subrecipient, may discriminate against a VISTA on the basis of race, color, national origin, gender, age, religion, or political affiliation. No sponsor or subrecipient, or sponsor or subrecipient employee, or individual with responsibility for the implementation or operation of a sponsor or a subrecipient, may discriminate against a VISTA on the basis of disability, if the VISTA is a qualified individual with a disability.

§ 2556.175 What limitations are VISTA sponsors subject to regarding religious activities?

(a) A VISTA may not give religious instruction, conduct worship services, or engage in any form of proselytizing as part of their duties.

(b) A sponsor or subrecipient may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use any AmeriCorps assistance, including the services of any VISTA or VISTA assistance, to support any inherently religious activities, such as worship, religious instruction, or proselytizing, as part of the programs or services assisted by the VISTA program. If a VISTA sponsor or subrecipient conducts such inherently religious activities, the activities must be offered separately, in time or location, from the programs or services assisted under this Part by the VISTA program.

§ 2556.180 What are the limitations on VISTA sponsors receiving funding for the direct cost of supporting volunteers?

(a) AmeriCorps will not obligate funding for the direct cost of supporting volunteers that is:

- (1) More than 30 percent of VISTA funds appropriated in any fiscal year; or
- (2) For a new project that was not selected through a competitive process.

(b) The “direct cost of supporting volunteers” includes only those funds that are paid directly to VISTA members, leaders, or summer associates, such as: living allowance; travel reimbursements, including the Settling In Allowance; End of Service Benefits, including the cash stipend; and other expenses paid directly to the member, leader, or summer associate, as determined by the VISTA Director.

Subpart C - VISTA Members

§ 2556.200 Who may serve as a VISTA?

An individual may serve as a VISTA if all the following requirements are met as of the date the individual takes the oath or affirmation, as appropriate, to enter VISTA service:

- (a) The individual is at least eighteen years of age. There is no upper age limit.
- (b) The individual is a United States citizen or national, or is legally residing within a State.

§ 2556.205 What commitments and agreements must an individual make to serve in the VISTA program?

- (a) To the maximum extent practicable, the individual must make a full-time commitment to remain available for service without regard to regular working hours, at all times during their period of service, except for authorized periods of leave.
- (b) To the maximum extent practicable, the individual must make a full-time personal commitment to alleviate poverty and poverty-related problems, and to live among and at the economic level of the low-income people served by the project.
- (c) The individual's service cannot be used to satisfy service requirements of parole, probation, or community service prescribed by the criminal justice system.
- (d) A VISTA candidate or member agrees to undergo an investigation into their criminal history or background as a condition of enrollment, or continued enrollment, in the VISTA program.

§ 2556.210 Who reviews and approves an application for VISTA service?

AmeriCorps has the final authority to approve or deny applications for VISTA service.

Subpart D – Terms, Protections, and Benefits of VISTA Members

§ 2556.300 Is a VISTA considered a Federal employee and is a VISTA considered an employee of the sponsor?

(a) Except for the purposes listed here, a VISTA is not considered an employee of the Federal Government. A VISTA is considered a Federal employee only for the following purposes:

- (1) Federal Tort Claims Act - 28 U.S.C. 1346(b); 28 U.S.C. 2671-2680;
- (2) Federal Employees' Compensation Act - 5 U.S.C. chapter 81, subchapter 1;
- (3) Hatch Act - 5 U.S.C. chapter 73, subchapter III;
- (4) Internal Revenue Service Code - 26 U.S.C. 1 *et seq.*; and

(5) Title II of the Social Security Act - 42 U.S.C. 401 *et seq.*

(b) A VISTA is not considered a Federal employee for any purposes other than those set forth in paragraph (a) of this section.

(c) A VISTA is not covered by Federal or State unemployment compensation related to their enrollment or service in the VISTA program. A VISTA's service is not considered employment for purposes of eligibility for, or receipt of, Federal, State, or any other unemployment compensation.

(d) Monetary allowances, such as living allowances that VISTAs receive during VISTA service, are not considered wages. Monetary allowances, such as living allowances, that VISTAs receive during VISTA service are considered income for such purposes as Federal income tax and Social Security.

(e) A VISTA is not, under any circumstances, considered an employee of the sponsor or subrecipient to which they are assigned to serve. No VISTA is in an employment relationship with the sponsor or subrecipient to which they are assigned. The sponsor is not authorized to make contributions to any State unemployment compensation fund on a VISTA's behalf.

§ 2556.305 What is the duration and scope of service for a VISTA?

(a) To serve as a VISTA, an individual makes a full-time commitment for a minimum of one year, without regard to regular working hours.

(b) A VISTA carries out activities in accordance with the purpose of the VISTA program, as described in § 2556.1.

(c) To the maximum extent practicable, the VISTA must live among and at the economic level of the low-income community served by the project.

(d) A VISTA carries out service activities in conformance with the sponsor's approved project application, including any description of a VISTA assignment as contained in the

project application; and in conformance with the purpose of title I of the DVSA. In any case where there is a conflict between the project application and the DVSA, the DVSA takes precedence.

(e) Under no circumstances may an individual be enrolled to serve as a VISTA beyond five years.

§ 2556.310 What are a VISTA sponsor's and AmeriCorps' supervisory responsibilities during a VISTA's term of service?

(a) The VISTA sponsor is responsible for the day-to-day supervision and oversight of the VISTA.

(b) AmeriCorps is responsible for ongoing monitoring and oversight of the VISTA sponsor's project where the VISTA is assigned. AmeriCorps is responsible for selecting the VISTA, assigning the VISTA to a project, removal of a VISTA from a project, and VISTA separation actions such as termination from the VISTA program.

§ 2556.315 What are terms and conditions for official travel for a VISTA?

(a) AmeriCorps may provide official travel for a VISTA candidate or a VISTA, as appropriate, to attend AmeriCorps-directed activities such as pre-service training, placement at the project site, in-service training events, and return from the project site to the VISTA's or VISTA candidate's home of record.

(b) AmeriCorps must approve all official travel of a VISTA candidate or a VISTA, including the mode of travel.

(c) AmeriCorps may provide for official emergency travel for a VISTA in case of a natural disaster or the critical illness or death of an immediate family member.

§ 2556.320 What benefits may a VISTA receive during VISTA service?

- (a) A VISTA receives a living allowance computed on a daily rate. Living allowances vary according to the local cost of living in the project area where the VISTA is assigned.
- (b) Subject to a maximum amount, and at the discretion and upon approval of AmeriCorps, a VISTA may receive payment for settling-in expenses, as determined by AmeriCorps.
- (c) Subject to a maximum amount, and at the discretion of AmeriCorps, in the event of an emergency (such as theft, fire loss, or special clothing necessitated by severe climate), a VISTA may receive an emergency expense payment in order to resume VISTA service activities, as determined and approved by AmeriCorps.
- (d) Subject to a maximum amount, and at the discretion of AmeriCorps, a VISTA may receive a relocation travel allowance to offset the cost of relocating from the home of record to the project site, as determined by AmeriCorps.
- (e) To the extent eligible, a VISTA may receive health care through a health benefits program provided by AmeriCorps.
- (f) To the extent eligible, a VISTA may receive childcare support through a childcare program provided by AmeriCorps.
- (g) To the extent eligible, a VISTA may elect to receive a Segal AmeriCorps Education Award, and upon successful completion of service, receive that award in an amount prescribed by AmeriCorps, in accordance with the applicable provisions of 45 CFR parts 2526, 2527, and 25285.

(1) A VISTA is eligible to elect to receive an education award if they are a citizen, national, or lawful permanent resident alien of the United States.

(2) A VISTA who elects an education award is eligible to request forbearance of a student loan from their loan-holder. A VISTA who elects an education award may, upon successful completion of service, be eligible to receive up to 100 percent of the interest

accrued on a qualified student loan, consistent with the applicable provisions of 45 CFR part 2529.

(3) A VISTA is not eligible to receive more than an amount equal to the aggregate value of two full-time education awards in their lifetime.

(4) Other than for a summer associate, the amount of an education award for the successful completion of a VISTA term of service is equal to the maximum amount of a Federal Pell Grant under Section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) that a student eligible for such grant may receive in the aggregate for the fiscal year in which the VISTA has enrolled in the VISTA program.

(h) A VISTA who does not elect to receive a Segal AmeriCorps Education Award upon successful completion of service receives an end-of-service stipend in an amount prescribed by AmeriCorps.

(i) In the event that a VISTA does not successfully complete a full term of service, they may not receive a pro-rated Segal AmeriCorps Education Award or a pro-rated end-of-service stipend, except in cases where the appropriate VISTA Case Manager determines the VISTA did not successfully complete a full term of service because of a compelling personal circumstance. Examples of a compelling personal circumstance are: Serious medical condition or disability of a VISTA during VISTA service; critical illness or disability of a VISTA's immediate family member (spouse, domestic partner, parent, sibling, child, or guardian) if this event makes completing a term of service unreasonably difficult; or unusual conditions not attributable to the VISTA, such as natural disaster, strike, or premature closing of a project, that make completing a term of service unreasonably difficult or infeasible.

(j) In the event of a VISTA's death during service, their family or others that they named as beneficiary in accordance with section 5582 of title 5, United States Code will be paid a pro-rated end-of-service stipend for the period during which the VISTA served. If the

VISTA had elected to receive the Segal AmeriCorps Education Award for successful completion of a full term of VISTA service, AmeriCorps will, prior to payment to the named beneficiary, convert that election to an end-of-service stipend and pay the VISTA's family, or others that they named as beneficiary, a pro-rated end-of-service stipend accordingly.

§ 2556.325 May a VISTA be provided coverage for legal defense expenses related to VISTA service?

Under certain circumstances, as set forth in §§ 2556.330 through 2556.335, AmeriCorps may pay reasonable legal defense expenses incurred in judicial or administrative proceedings for the defense of a VISTA serving in the VISTA program. Such covered legal expenses consist of counsel fees, court costs, bail, and other expenses incidental to a VISTA's legal defense.

§ 2556.330 When may a VISTA be provided coverage for legal defense expenses related to criminal proceedings?

(a) For the legal defense of a VISTA member who is charged with a criminal offense related to the VISTA member's service, up to and including arraignment in Federal, State, and local criminal proceedings, AmeriCorps may pay actual and reasonable legal expenses. AmeriCorps is not required to pay any expenses for the legal defense of a VISTA member where they are charged with a criminal offense arising from alleged activity or action that is unrelated to that VISTA's service.

(b) A VISTA member's service is clearly unrelated to a charged offense when:

(1) The activity or action is alleged to have occurred prior to the VISTA member's VISTA service.

(2) The VISTA member is not at their assigned project location, such as during periods of approved leave, medical leave, emergency leave, or in administrative hold status in the VISTA program.

(3) The activity or action is alleged to have occurred at or near their assigned project, but is clearly not part of, or required by, the VISTA member's service assignment.

(c) For the legal defense, beyond arraignment in Federal, State, and local criminal proceedings, of a VISTA member who is charged with a criminal offense, AmeriCorps may also pay actual and reasonable legal expenses when:

(1) The charged offense against the VISTA member relates exclusively to their VISTA assignment or status as a VISTA member;

(2) The charged offense against the VISTA member arises from an alleged activity or action that is a part of, or required by, the VISTA member's VISTA assignment;

(3) The VISTA member has not admitted a willful or knowing violation of law; or

(4) The charged offense against the VISTA member is not a minor offense or misdemeanor, such as a minor vehicle violation.

(d) Notwithstanding paragraphs (a) through (c) of this section, there may be situations in which the criminal proceedings at issue arise from a matter that also gives rise to a civil claim under the Federal Tort Claims Act. In such a situation, the U.S. Department of Justice may, on behalf of the United States, agree to defend the VISTA. If the U.S. Department of Justice agrees to defend the VISTA member, unless there is a conflict between the VISTA member's interest and that of the United States, AmeriCorps will not pay for expenses associated with any additional legal representation (such as counsel fees for private counsel) for the VISTA member.

§ 2556.335 When may a VISTA be provided coverage for legal defense expenses related to civil or administrative proceedings?

For the legal defense in Federal, State, and local civil judicial and administrative proceedings of a VISTA member, AmeriCorps may also pay actual and reasonable legal expenses when:

- (a) The complaint or charge is against the VISTA, and is directly related to their VISTA service and not to their personal activities or obligations;
- (b) The VISTA has not admitted to willfully or knowingly pursuing a course of conduct that would result in the plaintiff or complainant initiating such a proceeding; and
- (c) The judgment sought involves a monetary award that exceeds \$1,000.

§ 2556.340 What is non-competitive eligibility and who is eligible for it?

- (a) Non-competitive eligibility is a status that means a person is eligible for appointment, by a Federal agency in the Executive branch, into a civil service position in the Federal competitive service, in accordance with 5 CFR 315.605.
- (b) An individual who successfully completes at least a year-long term of service as a VISTA, and who has not been terminated for cause from the VISTA program at any time, has non-competitive eligibility status for one year following the end of the term of service as a VISTA.
- (c) In addition to the year of non-competitive eligibility status as provided in paragraph (b) of this section, an individual's non-competitive eligibility status may extend for two more years, to a total of three years, if the individual is:
 - (1) In the military service;
 - (2) Studying at a recognized institution of higher learning; or
 - (3) In another activity which, in the view of the Federal agency referenced in paragraph (a) of this section, warrants extension.

§ 2556.345 Who may present a grievance?

- (a) Under the VISTA program grievance procedure, a grievance may be presented by any individual who is currently enrolled in the VISTA program or who was enrolled in the VISTA program within the past 30 calendar days.
- (b) A VISTA's grievance may not be construed as reflecting on the VISTA's standing, performance, or desirability as a VISTA.
- (c) A VISTA who presents a grievance may not be subjected to restraint, interference, coercion, discrimination, or reprisal because of presentation of views.

§ 2556.350 What matters are considered grievances?

- (a) Under the VISTA program grievance procedure, grievances are matters of concern, brought by a VISTA, that arise out of, and directly affect, the VISTA's service situation or that arise out of a violation of a policy, practice, or regulation governing the terms or conditions of the VISTA's service, that result in the denial or infringement of a right or benefit to the VISTA member.
- (b) Matters not within the definition of a grievance as defined in paragraph (a) of this section are not grievable, and therefore, are excluded from the VISTA program grievance procedure. Though not exhaustive, examples of matters excluded from the VISTA program grievance procedure are:
 - (1) Matters related to a sponsor's or project's continuance or discontinuance; the number of VISTAs assigned to a VISTA project; the increases or decreases in the level of support provided to a VISTA project; the suspension or termination of a VISTA project; or the selection or retention of VISTA project staff;
 - (2) Matters for which a separate administrative procedure or complaint process is provided, such as early termination for cause, claims of discrimination during service,

and Federal worker's compensation claims filed for illness or injury sustained in the course of carrying out VISTA activities;

(3) Matters related to the content of any law, published rule, regulation, policy, or procedure;

(4) Matters related to housing during a VISTA member's service;

(5) Matters which are, by law, subject to final administrative review outside AmeriCorps;

(6) Matters related to actions taken, or not taken, by a VISTA sponsor or subrecipient, or AmeriCorps, in compliance with or in order to fulfill the terms of a contract, grant, or other agreement related to the VISTA program; or

(7) Matters related to the internal management of AmeriCorps, unless such matters are shown to specifically and directly affect the VISTA's service situation or terms or conditions of their VISTA service.

§ 2556.355 May a VISTA have access to records as part of the VISTA grievance procedure?

(a) A VISTA is entitled to review any material in their official VISTA file and any relevant AmeriCorps records to the extent permitted by the Freedom of Information Act and the Privacy Act, 5 U.S.C. 552, 552a. Examples of materials that may be withheld include references obtained under pledge of confidentiality, official VISTA files of other VISTAs, and privileged intra-agency documents.

(b) A VISTA may review relevant materials in the possession of a sponsor to the extent such materials are disclosable by the sponsor under applicable Freedom of Information Act and privacy laws.

§ 2556.360 How may a VISTA bring a grievance?

(a) Bringing a grievance – Step 1.

(1) If a VISTA is currently enrolled in the VISTA program or was enrolled in the VISTA program within the past 30 calendar days, they may, within 15 calendar days of an event giving rise to a grievance or within 15 calendar days after becoming aware of such an event, bring a grievance to the sponsor or subrecipient where they are assigned to serve. If the grievance arises out of a continuing condition or practice that individually affects a VISTA, the VISTA may bring it at any time during their enrollment that they are affected by the continuing condition or practice.

(2) A VISTA brings a grievance by presenting it in writing to the executive director, or comparable individual, of the sponsoring organization where the VISTA is assigned or to the sponsor's representative who is designated to receive grievances from a VISTA.

(3) The sponsor must review and respond in writing to the VISTA's grievance within 10 calendar days of receipt of the written grievance. The sponsor may not fail to respond to a complaint raised by a VISTA on the basis that it is not an actual grievance, or that it is excluded from coverage as a grievance, but may, in the written response, dismiss the complaint and refuse on either of those grounds to grant the requested relief.

(4) If the grievance brought by a VISTA involves a matter over which the sponsor has no substantial control or if the sponsor's representative is the supervisor of the VISTA, the VISTA may pass over the procedure set forth in paragraphs (a)(1) through (3) of this section and present the grievance in writing directly to the Deputy Regional Administrator, as described in paragraph (b) of this section.

(b) Bringing a grievance – Step 2.

(1) If, after a VISTA brings a grievance as set forth in paragraphs (a)(1) and (2) of this section, the matter is not resolved, they may submit the grievance in writing to the

appropriate Deputy Regional Administrator. The VISTA must submit the grievance to the Deputy Regional Administrator either:

- (i) Within seven calendar days of receipt of the sponsor's response; or,
- (ii) In the event the sponsor does not issue a response to the VISTA within 10 calendar days of its receipt of the written grievance, within 17 calendar days of the sponsor's receipt of the written grievance.

(2) If the grievance involves a matter over which either the sponsor or subrecipient has no substantial control, or if the sponsor's representative is the supervisor of the VISTA, as described in paragraph (a)(4) of this section, the VISTA may pass over the procedure set forth in paragraphs (a)(1) through (3) of this section, and submit the grievance in writing directly to the Deputy Regional Administrator. In such a case, the VISTA must submit the grievance to the Deputy Regional Administrator within 15 calendar days of the event giving rise to the grievance occurs, or within 15 calendar days after becoming aware of the event.

(3) Within ten working days of receipt of the grievance, the Deputy Regional Administrator will respond in writing, regardless of whether or not the matter constitutes a grievance as defined under this grievance procedure and/or is timely submitted. In the response, the Deputy Regional Administrator may determine that the matter submitted as a grievance is not grievable, is not considered a grievance, or fails to meet the time limit for response. If the Deputy Regional Administrator makes any such determination, they may dismiss the complaint, setting forth the reason(s) for the dismissal. In such a case, the Deputy Regional Administrator need not address the complaint on the merits, nor make a determination of the complaint on the merits.

§ 2556.365 May a VISTA appeal a grievance?

(a) A VISTA may appeal the Deputy Regional Administrator's response to the grievance under § 2556.360(b)(3) by submitting a written appeal to the appropriate Regional Administrator. To be eligible to appeal a grievance response to the Regional Administrator, the VISTA must first have exhausted all appropriate actions as set forth in § 2556.360.

(b) A VISTA's grievance appeal must be in writing, contain sufficient detail to identify the subject matter of the grievance, specify the relief requested, and be signed by the VISTA.

(c) A VISTA must submit a grievance appeal to the appropriate Regional Administrator no later than 10 calendar days after the Deputy Regional Administrator issues their response to the grievance.

(d) Certain matters contained in a grievance appeal may be rejected, rather than denied on the merits, by the Regional Administrator. A grievance appeal may be rejected, in whole or in part, for any of the following reasons:

(1) The grievance appeal was not submitted to the appropriate Regional Administrator within the time limit specified in paragraph (c) of this section;

(2) The grievance appeal consists of matters not contained within the definition of a grievance, as specified in section § 2556.350(a);

(3) The grievance appeal consists of matters excluded from the VISTA program grievance procedure, as specified in § 2556.350(b); or

(4) The grievance appeal contains matters that are moot, or for which relief has otherwise been granted.

(e) Within 14 calendar days of receipt of the grievance, the appropriate Regional Administrator will decide the grievance appeal on the merits, or reject the grievance appeal in whole or in part, or both, as appropriate. The Regional Administrator shall notify the VISTA in writing of the decision and specify the grounds for the appeal

decision. The appeal decision will include a statement of the basis for the decision and is a final decision of AmeriCorps.

Subpart E - Termination for Cause Procedures

§ 2556.400 What is termination for cause and what are the criteria for termination for cause?

(a) Termination for cause is discharge of a VISTA from the VISTA program due to a deficiency, or deficiencies, in conduct or performance.

(b) AmeriCorps may terminate a VISTA for cause for any of the following reasons:

(1) Conviction of any criminal offense under Federal, State, or local statute or ordinance;

(2) Violation of any provision of the Domestic Service Volunteer Act of 1973, as amended, or any AmeriCorps or VISTA program policy, regulation, or instruction;

(3) Failure, refusal, or inability to perform prescribed project duties as outlined in the project plan, assignment description, or as directed by the sponsor to which the VISTA is assigned;

(4) Involvement in activities which substantially interfere with the VISTA's performance of project duties;

(5) Intentional false statement, misrepresentation, omission, fraud, or deception in seeking to obtain selection as a VISTA in the VISTA program;

(6) Any conduct on the part of the VISTA which substantially diminishes their effectiveness as a VISTA; or

(7) Unsatisfactory performance of an assignment.

§ 2556.405 Who has sole authority to remove a VISTA from a VISTA project and who has sole authority to terminate a VISTA from a VISTA project or the VISTA program?

- (a) AmeriCorps has the sole authority to remove a VISTA from a project where they have been assigned.
- (b) AmeriCorps has the sole authority to terminate for cause or otherwise terminate a VISTA from the VISTA program.
- (c) Neither the sponsoring organization nor any of its subrecipients has the authority to remove a VISTA from a project or to terminate a VISTA for cause, or for any other basis, from the VISTA program.

§ 2556.410 May a sponsor request that a VISTA be removed from its project?

- (a) The head of a sponsoring organization, or their designee, may request that AmeriCorps remove a VISTA assigned to its project. Any such request must be submitted in writing to the appropriate Portfolio Manager and should state the reasons for the request.
- (b) The Portfolio Manager may, at their discretion, attempt to resolve the situation with the sponsor so that a solution other than removal of the VISTA from the project assignment is reached.
- (c) When an alternative solution, as referenced in paragraph (b) of this section, is not sought, or is not reached within a reasonable time period, the Portfolio Manager will remove the VISTA from the project.

§ 2556.415 May AmeriCorps remove a VISTA from a project without the sponsor's request for removal?

Of its own accord, AmeriCorps may remove a VISTA from a project assignment without the sponsor's request for removal.

§ 2556.420 What are termination for cause proceedings?

(a) Termination for cause proceedings remove a VISTA from a project assignment due to an alleged deficiency, or alleged deficiencies, in conduct or performance, and are initiated by AmeriCorps.

(b) AmeriCorps, to the extent practicable, communicates the matter, and the administrative procedures as set forth in paragraphs (c) through (e) of this section, with the VISTA who is removed from a VISTA project.

(c) The VISTA Case Manager will notify the VISTA in writing of AmeriCorps' proposal to terminate for cause. The written proposal to terminate the VISTA for cause must give them the reason(s) for the proposed termination, and notify them that they have 10 calendar days within which to submit a written answer to the proposal to terminate them cause and to furnish any accompanying statements or written material. The VISTA must submit their answer to the VISTA Case Manager by the deadline identified in the written proposal to terminate for cause.

(d) Within 10 calendar days of the expiration of the VISTA's deadline to answer the proposal to terminate for cause, AmeriCorps will issue a written decision regarding the proposal to terminate for cause.

(1) If AmeriCorps decides to terminate the VISTA for cause, its written decision will set forth the reasons for the determination and the effective date of termination (which may be on or after the date of the decision).

(2) If AmeriCorps decides not to terminate the VISTA for cause, the written decision will indicate that the proposal to terminate for cause is rescinded.

(e) A VISTA who does not submit a timely answer to the appropriate VISTA Case Manager, as set forth in paragraph (c) of this section, is not entitled to appeal the decision regarding the proposal to terminate for cause. In such cases, AmeriCorps may terminate the VISTA for cause, on the date identified in the decision, and the termination action is final.

§ 2556.425 May a VISTA appeal their termination for cause?

(a) Within 10 calendar days of the appropriate AmeriCorps Director's issuance of the decision to terminate the VISTA for cause, as set forth in § 2556.420(d), the VISTA may appeal the decision to the VMSU Director. The appeal must be in writing and specify the reasons for the VISTA's disagreement with the decision.

(b) AmeriCorps will not incur any expenses or travel allowances for the VISTA in connection with the preparation or presentation of the appeal.

(c) The VISTA may have access to records as follows:

(1) The VISTA may review any material in the VISTA's official AmeriCorps file and any relevant AmeriCorps records to the extent permitted by the Freedom of Information Act and the Privacy Act, 5 U.S.C. 552, 552a. Examples of documents that may be withheld include references obtained under pledge of confidentiality, official files of other program participants, and privileged intra-agency documents.

(2) The VISTA may review relevant records in the possession of a sponsor to the extent such documents are disclosable by the sponsor under applicable freedom of information act and privacy laws.

(d) Within 14 calendar days of receipt of any appeal by the VISTA, the VMSU Director or equivalent AmeriCorps official will issue a written appeal determination indicating the reasons for the appeal determination. The appeal determination will be final.

§ 2556.430 Is a VISTA who is terminated early from the VISTA program for other than cause entitled to appeal under these procedures?

(a) Only a VISTA whose early termination from the VISTA program is for cause, and who has answered the proposal to terminate them for cause in a timely manner, as set forth in § 2556.420(c), is entitled to appeal the early termination action, as referenced in § 2556.425. A termination for cause is based on a deficiency, or deficiencies, in the performance or conduct of a VISTA.

(b) The following types of early terminations from the VISTA program are not terminations for cause, and are not entitled to appeal under the early termination appeal procedure set forth in §§ 2556.420 and 2556.425:

(1) Resignation from the VISTA program prior to the issuance of a decision to terminate for cause, as set forth in § 2556.420(d);

(2) Early termination from the VISTA program because a VISTA did not secure a suitable reassignment to another project; and

(3) Medical termination from the VISTA program.

Subpart F – Summer Associates

§ 2556.500 How is a position for a summer associate established in a project?

Subject to VISTA assistance availability, AmeriCorps approves the establishment of summer associate positions based on the following factors:

(a) The need in the community, as demonstrated by the sponsor, for the performance of project activities by a summer associate(s);

(b) The content and quality of summer associate project plans;

(c) The capacity of the sponsor to implement the summer associate project activities; and

(d) The sponsor's compliance with all applicable parts of the DVSA, VISTA program policy, and the sponsor's Memorandum of Agreement, which incorporates their project application.

§ 2556.505 How do summer associates differ from other VISTAs?

Summer associates differ from other VISTAs in the following ways:

(a) Summer associates are not eligible to receive:

- (1) Health care through a health benefits program provided by AmeriCorps;
- (2) Childcare support through a childcare program provided by AmeriCorps;
- (3) Payment for settling-in expenses; or
- (4) Non-competitive eligibility in accordance with 5 CFR 315.605.

(b) Absent extraordinary circumstances, summer associates are not eligible to receive:

(1) Payment for travel expenses incurred for travel to or from the project site to which the summer associate is assigned; or

(2) A relocation travel allowance to offset the cost of relocating from the summer associate's home of record to the project site to which they are assigned to serve.

(c) AmeriCorps may discharge a summer associate due to a deficiency, or deficiencies, in conduct or performance. Summer associates are not subject to subpart E of this part, or to the grievance procedures provided to VISTAs set forth in §§ 2556.345 through 2556.365.

Subpart G - VISTA Leaders

§ 2556.600 How is a position for a leader established in a project, or in multiple projects within a contiguous geographic region?

(a) At its discretion, AmeriCorps may approve the establishment of a leader position based on the following factors:

(1) The need for a leader in a project of a substantial size and with multiple VISTAs assigned to serve at that project, or the need for leader for multiple projects located within a contiguous geographic region.

(2) The need for a leader to assist with the communication of VISTA policies and administrative procedures to VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(3) The need for a leader to assist with the professional development of VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(4) The need for a leader to assist with the recruitment and preparation for the arrival of VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(5) The capacity of the VISTA supervisor to support and guide the leader.

(b) A sponsor may request, in its project application, that AmeriCorps establish a leader position in its project.

§ 2556.605 Who is eligible to apply to serve as a leader?

An individual is eligible to apply to serve as a leader if they have successfully completed any of the following:

(a) At least one year of service as a VISTA;

(b) At least one full term of service as a full-time AmeriCorps State and National member;

(c) At least one full term of service as a member of the AmeriCorps National Civilian Community Corps (NCCC); or

(d) At least one traditional term of service as a Peace Corps Volunteer.

§ 2556.610 What is the application process to apply to become a leader?

- (a) *Application package.* An eligible individual must apply in writing to AmeriCorps to become a leader. The sponsor's recommendation must be included with the individual's application to become a leader.
- (b) *Sponsor recommendation.* A sponsor with which an individual is seeking to serve as a leader must recommend the individual to become a leader, in writing, to AmeriCorps.
- (c) *Selection.* AmeriCorps has sole authority to select a leader. The criteria considered for selection include the individual's experience, special skills, and leadership, as demonstrated in the application and the sponsor's recommendation.

§ 2556.615 Who reviews a leader application and who approves or disapproves a leader application?

AmeriCorps reviews the application package for the leader position, considers the recommendation of the sponsor, and approves or disapproves the individual to serve as a leader.

§ 2556.620 How does a leader differ from other VISTAs?

- (a) The application process to become a leader, as described in § 2556.610, is separate and distinct from the application process to enroll as a VISTA in the VISTA program.
- (b) A leader may receive a living allowance computed at a higher daily rate than other VISTAs, as authorized under section 105(a)(1)(B) of the DVSA.
- (c) A leader is subject to all the terms and conditions of service described in § 2556.625.

§ 2556.625 What are terms and conditions of service for a leader?

Though not exhaustive, terms and conditions of service as a leader include:

(a) A leader makes a full-time commitment to serve as a leader, without regard to regular working hours, for a minimum of one year.

(b) To the maximum extent practicable, a leader must live among and at the economic level of the low-income community served by the project and actively seek opportunities to engage with that low-income community.

(c) A leader aids the communication of VISTA policies and administrative procedures to VISTAs.

(d) A leader assists with the leadership development of VISTAs.

(e) A leader is a resource in the development and delivery of training for VISTAs.

(f) A leader may assist the sponsor with recruitment and preparation for the arrival of VISTAs.

(g) A leader may advise a supervisor on potential problem areas and needs of VISTAs.

(h) A leader aids VISTAs in the development of effective working relationships and understanding of VISTA program concepts.

(i) A leader may aid the supervisor and sponsor in directing or focusing the VISTA project to best address the community's needs.

(j) A leader may serve as a collector of data for performance measures of the project and the VISTAs.

(k) A leader is prohibited from supervising VISTAs. A leader is also prohibited from handling or managing, on behalf of the project, personnel-related matters affecting VISTAs. Personnel-related matters affecting VISTAs must be managed and handled by the project and in coordination with the appropriate AmeriCorps Regional Office.

Subpart H – Restrictions and Prohibitions on Political Activities and Lobbying

§ 2556.700 Who is covered by this subpart?

- (a) All VISTAs, including leaders and summer associates, are subject to this subpart.
- (b) All employees of VISTA sponsors and subrecipients whose salaries or other compensation are paid, in whole or in part, with VISTA grant assistance are subject to this subpart.
- (c) All VISTA sponsors and subrecipients are subject to this subpart.

§ 2556.705 What is prohibited political activity?

For purposes of the regulations in this subpart, “prohibited political activity” means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.

§ 2556.710 What political activities are VISTAs prohibited from engaging in?

- (a) A VISTA may not use their official authority or influence to interfere with or affect the result of an election.
- (b) A VISTA may not use their official authority or influence to coerce any individual to participate in political activity.
- (c) A VISTA may not use their official VISTA program title while participating in prohibited political activity.
- (d) A VISTA may not participate in prohibited political activities in the following circumstances:
 - (1) While they are on duty;
 - (2) While they are wearing an article of clothing, logo, insignia, or other similar item that identifies AmeriCorps, the VISTA program, or one of AmeriCorps’ other national service programs;
 - (3) While they are in any room or building occupied in the discharge of VISTA duties by an individual employed by the sponsor; and

(4) While using a vehicle owned or leased by a sponsor or subrecipient, or while using a privately-owned vehicle in the discharge of VISTA duties.

§ 2556.715 What political activities may a VISTA participate in?

(a) Provided that paragraph (b) of this section is fully adhered to, a VISTA may:

(1) Express their opinion privately and publicly on political subjects;

(2) Be politically active in connection with a question that is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any other question or issue of similar character;

(3) Participate in the nonpartisan activities of a civic, community, social, labor, professional, or similar organization; and

(4) Participate fully in public affairs, except as prohibited by other Federal law, in a manner that does not compromise their efficiency or integrity as a VISTA, or compromise the neutrality, efficiency, or integrity of AmeriCorps or the VISTA program.

(b) A VISTA may participate in political activities set forth in paragraph (a) of this section as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with their provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.720 May VISTAs participate in political organizations?

(a) Provided that paragraph (b) of this section is fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Be a member of a political party or other political group and participate in its activities;

(2) Serve as an officer of a political party or other political group, a member of a national, State, or local committee of a political party, an officer or member of a committee of a political group, or be a candidate for any of these positions;

(3) Attend and participate fully in the business of nominating caucuses of political parties;

(4) Organize or reorganize a political party organization or political group;

(5) Participate in a political convention, rally, or other political gathering; and

(6) Serve as a delegate, alternate, or proxy to a political party convention.

(b) A VISTA may participate in a political organization as long as such participation complies with the restrictions set out in paragraphs (b)(1) through (6) of § 2556.715.

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.725 May VISTAs participate in political campaigns?

(a) Provided that paragraph (b) of this section is fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Display pictures, signs, stickers, badges, or buttons associated with political parties, candidates for partisan political office, or partisan political groups, as long as these items are displayed in accordance with the prohibitions set forth in § 2556.710;

(2) Initiate or circulate a nominating petition for a candidate for partisan political office;

(3) Canvass for votes in support of or in opposition to a partisan political candidate or a candidate for political party office;

(4) Endorse or oppose a partisan political candidate or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material; and

(5) Address a convention caucus, rally, or similar gathering of a political party or political group in support of or in opposition to a partisan political candidate or a candidate for political party office.

(b) A VISTA may participate in a political campaign as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.730 May VISTAs participate in elections?

(a) Provided that paragraph (b) of this section is fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

- (1) Register and vote in any election;
- (2) Act as recorder, watcher, challenger, or similar officer at polling places;
- (3) Serve as an election judge or clerk, or in a similar position; and
- (4) Drive voters to polling places for a partisan political candidate, partisan political group, or political party.

(5) Participate in voter registration activities.

(b) A VISTA may participate in elections as long as such participation:

- (1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;
- (2) Does not interfere with the provision of service in the VISTA program;
- (3) Does not involve any use of VISTA assistance, resources or funds;
- (4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;
- (5) Is not conducted during scheduled VISTA service hours; and
- (6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.735 May a VISTA be a candidate for public office?

(a) Except as provided in paragraph (c) of this section, no VISTA may run for the nomination to, or as a candidate for election to, partisan political office.

(b) In accordance with the prohibitions set forth in § 2556.710, a VISTA may participate in elections as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interference with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

(c) Provided that paragraphs (a) and (b) of this section are adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Run as an independent candidate in a partisan election in designated U.S. municipalities and political subdivisions as set forth at 5 CFR part 733; and

(2) Run as a candidate in a non-partisan election.

§ 2556.740 May VISTAs participate in political fundraising activities?

(a) Provided that paragraphs (b) through (d) of this section are fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Make a political contribution to a political party, political group, campaign committee of a candidate for public office in a partisan election;

(2) Attend a political fundraiser; and

(3) Solicit, accept, or receive uncompensated volunteer services for a political campaign from any individual.

(b) A VISTA may participate in fundraising activities as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

(c) A VISTA may not knowingly:

(1) Personally solicit, accept, or receive a political contribution from another individual;

(2) Personally solicit political contributions in a speech or keynote address given at a fundraiser;

(3) Allow their perceived or actual affiliation with the VISTA program, or their official title as a VISTA, to be used in connection with fundraising activities; or

(4) Solicit, accept, or receive uncompensated individual volunteer services from a subordinate (e.g., a leader may not solicit, accept or receive a political contribution from a VISTA).

(d) Except for VISTAs who reside in municipalities or political subdivisions designated under 5 CFR part 733, no VISTA may accept or receive a political contribution on behalf

of an individual who is a candidate for local partisan political office and who represents a political party.

§ 2556.745 Are VISTAs prohibited from soliciting or discouraging the political participation of certain individuals?

(a) A VISTA may not knowingly solicit or discourage the participation in any political activity of any individual who has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before AmeriCorps or the VISTA program.

(b) A VISTA may not knowingly solicit or discourage the participation in any political activity of any individual who is the subject of, or a participant in, an ongoing audit, investigation, or enforcement action being carried out by or through AmeriCorps or the VISTA program.

§ 2556.750 What restrictions and prohibitions are VISTAs who campaign for a spouse or family member subject to?

A VISTA who is the spouse or family member of a candidate for partisan political office, candidate for political party office, or candidate for public office in a nonpartisan election is subject to the same restrictions and prohibitions as other VISTAs, as set forth in § 2556.725.

§ 2556.755 May VISTAs participate in lawful demonstrations?

In accordance with the prohibitions set forth in § 2556.710, VISTAs may participate in lawful demonstrations, political rallies, and other political meetings, so long as such participation is in conformance with all of the following:

(a) Occurs only while on authorized leave or while otherwise off duty;

(b) Does not include attempting to represent, or representing, the views of VISTAs or the VISTA program on any public issue;

(c) Could not be reasonably understood by the community as being identified with the VISTA program, the project, or other elements of VISTA service; and

(d) Does not interfere with the discharge of VISTA duties.

§ 2556.760 May a sponsor or subrecipient approve the participation of a VISTA in a demonstration or other political meeting?

(a) No VISTA sponsor or subrecipient may approve a VISTA to be involved in planning, initiating, participating in, or otherwise aiding or assisting in any demonstration or other political meeting.

(b) If a VISTA sponsor or subrecipient, subsequent to the receipt of any AmeriCorps financial assistance, including the assignment of VISTAs, approves the participation of a VISTA in a demonstration or other political meeting, that VISTA sponsor or subrecipient is subject to procedures related to the suspension or termination of such assistance, as provided in subpart B of this part, §§ 2556.135 through 2556.140.

§ 2556.765 What disciplinary actions are VISTAs subject to for violating restrictions or prohibitions on political activities?

Violations by a VISTA of any of the prohibitions or restrictions set forth in this subpart may warrant termination for cause, in accordance with proceedings set forth at §§ 2556.420, 2556.425, and 2556.430.

§ 2556.770 What are the requirements of VISTA sponsors and subrecipients regarding political activities?

(a) All sponsors and subrecipients are required to:

(1) Understand the restrictions and prohibitions on the political activities of VISTAs, as set forth in this subpart;

(2) Provide training to VISTAs on all applicable restrictions and prohibitions on political activities, as set forth in this subpart, and use training materials that are consistent with these restrictions and prohibitions;

(3) Monitor on a continuing basis the activity of VISTAs for compliance with this subpart; and

(4) Report all violations or questionable situations immediately to the appropriate AmeriCorps State Office.

(b) Failure of a sponsor to comply with the requirements of this subpart, or a violation of the requirements contained in this subpart by the sponsor or subrecipient, sponsor or subrecipient's covered employees, agents, or VISTAs, may be deemed a material failure to comply with terms or conditions of the VISTA program. In such a case, the sponsor is subject to procedures related to the denial or reduction, or suspension or termination, of such assistance, as provided in §§ 2556.125, 2556.130, and 2556.140.

§ 2556.775 What prohibitions and restrictions on political activity apply to employees of VISTA sponsors and subrecipients?

All employees of VISTA sponsors and subrecipients, whose salaries or other compensation are paid, in whole or in part, with VISTA funds are subject to all applicable prohibitions and restrictions described in this subpart in the following circumstances:

(a) Whenever they are engaged in an activity that is supported by AmeriCorps or VISTA funds or assistance; and

(b) Whenever they identify themselves as acting in their capacity as an official of a VISTA project that receives AmeriCorps or VISTA funds or assistance, or could reasonably be perceived by others as acting in such a capacity.

§ 2556.780 What prohibitions on lobbying activities apply to VISTA sponsors and subrecipients?

(a) No VISTA sponsor or subrecipient may assign a VISTA to perform service or engage in activities related to influencing the passage or defeat of legislation or proposals by initiative petition.

(b) No VISTA sponsor or subrecipient may use any AmeriCorps financial assistance, such as VISTA funds or the services of a VISTA, for any activity related to influencing the passage or defeat of legislation or proposals by initiative petition.

Fernando Laguarda,

General Counsel.

[FR Doc. 2023-01443 Filed: 1/25/2023 8:45 am; Publication Date: 1/26/2023]